

Frequently Asked Questions

Regarding the Notice of Violation of Septic System Discharge Prohibition,
Los Osos/Baywood Park

March 2007

Preface: The electronic version of this document contains hyperlinks on certain subject words that will direct you to documents that describe that subject in more detail. If you have questions that aren't addressed here, you may review most of the documents related to the septic system discharge prohibition and individual enforcement [online](#) or at the Water Board office at [895 Aerovista Place, Suite 101, San Luis Obispo](#), during normal business hours. You may also contact Water Board staff Matt Thompson at (805) 549-3159, or by email at mthompson@waterboards.ca.gov.

Q: What is the function of the Water Board?

A: One of the Water Board's main [functions](#) is to regulate waste discharges that may affect water quality, such as septic systems, community wastewater treatment plants, and industrial facilities (e.g., wineries). This includes enforcing the laws and regulations designed to protect and enhance water quality and its uses (water supply, recreation, and shellfishing, for example).

Q: What am I required to do in response to this [Notice of Violation](#)?

A: The Notice of Violation is simply a notice and does not require any action on your part at this time. We will be notifying you of further enforcement by separate letter in the coming months. In the meantime, we encourage you to get informed about the County's current process for building a community wastewater system. A community-wide wastewater system is the most feasible and practical solution to the prohibition.

Q: If my septic system discharge has been prohibited since the 1980's, why hasn't the Water Board previously enforced the prohibition?

A: Although property owners and occupants (including tenants) are ultimately responsible for their septic system discharges, the Water Board has not previously enforced the prohibition against individual property owners and occupants because your local governments, San Luis Obispo County and the Los Osos Community Services District, were proceeding to build a community wastewater system to replace individual septic systems. Unfortunately, a community wastewater system has not yet been built. The Water Board has taken several enforcement actions against these agencies, including a large [monetary penalty](#), but it has not resulted in a solution thus far. In light of this, we are now enforcing the prohibition against all individual property owners and occupants in the Los Osos/Baywood Park areas.

Q: How does my septic tank discharge?

Septic systems are designed to discharge wastewater. Your wastewater flows from the house to the septic tank, where most of the solids in the wastewater are removed. Wastewater overflows or is pumped from the septic tank into an underground disposal field (leachfield or seepage pit) and eventually to underlying groundwater.

Q: What is the basis of the septic system discharge [prohibition zone](#)?

A: The prohibition zone was established in 1983 when the Water Board adopted [Resolution No. 83-13](#). Resolution No. 83-13 describes in detail the basis for the prohibition zone. In short, there is substantial evidence of groundwater pollution and public health threats caused by the high concentration of septic systems in the prohibition zone.

Q: How are septic systems discharges in the prohibition zone harming water quality and public health?

The water quality problems and threats to public health caused by continued septic system discharges in the prohibition zone are documented in a wealth of [studies](#) extending back to 1969. In summary, the outflow, or “effluent,” of septic tanks contains high levels of bacteria and nitrogen, in the form of ammonia. As the effluent flows out of the tank and into the disposal field, the ammonia is aerated and is converted to nitrate. Nitrate is soluble (i.e., it stays dissolved in water) and travels downward to underlying groundwater. Los Osos soil is sandy, which does not support the microorganisms that typically remove nitrate from the water as it travels downward in the soil. Since lots in the prohibition zone are very small, most systems use deep seepage pits or leach beds for effluent disposal, rather than shallow trenches that are typically used where septic systems are appropriate. Seepage pits and leach beds put the wastewater deeper in the soil, closer to groundwater. In some of the low-lying areas of town, there is no separation between the bottom of the disposal field and groundwater, so effluent is disposed of directly into groundwater. The County and Los Osos Community Services District have been [monitoring groundwater](#) quality for many years. The concentration of nitrate in groundwater has steadily increased over time, and now exceeds the state’s [drinking water standard for nitrate](#) throughout the prohibition zone.

Groundwater levels in the prohibition zone have increased over time due the combined discharge of approximately 1 million gallons per day of septic tank effluent. Groundwater from much of the prohibition zone flows westward, towards the bay shoreline just south of the Baywood commercial district. Groundwater seeps out of this shoreline into back Morro Bay, which is a commercial shellfish growing area. These seeps contain very high levels of bacteria, and [DNA analysis of the bacteria](#) indicates that the greatest known source of the bacteria is humans. Since groundwater is very shallow in the low-lying parts of town, rainfall cannot soak into the ground as it used to. Instead, rainfall may mix with surfacing septic tank effluent and run off into Morro Bay. These are serious threats to public health.

A related problem is seawater intrusion. Since the shallow groundwater has been polluted with nitrate, it can no longer be reliably used as a water supply. Your community water suppliers have had to drill deeper wells to access cleaner water. Over-pumping of these deeper wells is now causing seawater to intrude inland from the west. One [hydrogeology study](#) estimates that the seawater is moving inland at a rate of 60 feet per year. One solution to the seawater intrusion problem is to restore the quality of shallow groundwater so that it may again be relied upon for water supply. Restoration of shallow groundwater quality will not occur until septic system discharges in the prohibition zone are eliminated.

Q: Doesn't the prohibition only apply to new septic systems?

A: No, the prohibition applies to both new and existing septic system discharges. When the Water Board originally adopted the [prohibition](#) in 1983, it allowed five years for the community sewer system to be built, in which time it also allowed some housing growth that was planned in that time to occur (to help pay for the cost of the project). Five years later, in 1988, when it became apparent that the community wastewater system was not going to be completed, the prohibition finally became effective. All septic system discharges in the prohibition zone have been prohibited since 1988.

Q: What is a Notice of Violation?

A: A Notice of Violation is an informal enforcement action. It is intended to notify the recipient of a specific water quality violation. A notice of violation is usually the first step in the enforcement process. The enforcement process is described in State Water Resources Control Board's [Enforcement Policy](#).

Q: Am I being fined?

A: No. This is simply a notice and it does not include fines. The cease and desist order that the Water Board has adopted does not include fines either. However, if you were subject to a cease and desist order and failed to comply with its requirements, then you could face fines. Such fines would come in the form of an administrative civil liability complaint, which we have not proposed at this time.

Q: I'm an absentee landowner and live out of the area. What is the status of the community sewer project?

A: The local community services district stopped construction of the community wastewater project in fall 2005, primarily because they did not like the location of the treatment facility. The community services district has since filed for bankruptcy. Special legislation authored by Assemblyman Sam Blakeslee ([AB 2701](#)) has shifted responsibility for the wastewater project from the community services district to the County of San Luis Obispo. The County has started a new process and is currently evaluating several community wastewater system alternatives, including an out-of-town

treatment facility. This fall the County will be asking property owners to vote on whether they agree to pay a special tax to fund the community wastewater system. Information regarding the County's project may be found at: <http://www.slocounty.ca.gov/PW/LOWWP.htm>.

Q: Did all prohibition zone property owners receive this Notice of Violation?

A: Yes, all owners of improved property (approximately 4,400) were sent this Notice of Violation on the same day. Vacant lots within the zone do not have septic system discharges, so owners of those lots did not receive a Notice of Violation.

Q: You mentioned that the Water Board issued cease and desist orders to a group of individuals in the prohibition zone. What exactly does the cease and desist order require?

A: The cease and desist order requires recipients to hook up to a community wastewater system within 60 days of its availability, whenever that is, or otherwise cease discharging in violation of the prohibition. However, if the [County's wastewater project](#) does not proceed and fails to meet certain milestones, including approval of a [benefits assessment](#) (i.e., special tax to pay for part of the community wastewater system), then that would trigger a deadline of January 1, 2011, by which recipients must eliminate their septic system discharges. To ensure septic systems remain functional until the community wastewater system is available, the cease and desist order also requires recipients to have their septic systems pumped out and inspected by a qualified contractor and repaired if necessary. It is important to note that as long as the County's community wastewater project proceeds, the cease and desist order does not require any action, other than this standard maintenance, until a community wastewater system connection is available.

Q: Are you going to issue enforcement actions for all properties in the Prohibition Zone?

A: Yes. Central Coast Water Board staff intends to continue issuing cease and desist orders or similar orders until all improved property owners and tenants in the Prohibition Zone have received an enforcement order, or all have connected to a community sewer system, whichever comes sooner. We are attempting to streamline the process to reach all properties as soon as possible. We are considering issuing cleanup or abatement orders containing the same requirements as the CDOs to streamline the hearing process.

Q: Why are owners and tenants both subject to CDOs?

A: As users of septic systems, tenants are discharging waste in violation of the Basin Plan. However, the State Water Board's longstanding policy is that property owners are also subject to regulation and enforcement for their tenants' waste discharges.

Q: My septic system isn't as bad as others (e.g., bigger lot, more separation to groundwater, less nitrate in my area, etc.), so why am I subject to enforcement?

A: Water quality problems in Los Osos are due to the total overloading of the area with septic system discharges. There are simply too many septic systems in too small of an area. Every site is different, but all are contributing to the problem and all are discharging illegally.

Q: What was the Water Board member's role in issuing this letter?

A: This Notice of Violation letter was issued by the Water Board Prosecution Team staff, not the Water Board members themselves. The letter was issued without the Water Board member's prior knowledge or direction. The Water Board members are separated from the Prosecution Team staff in this matter. The Water Board members act like the judge and jury in a courtroom, while the Water Board Prosecution Team staff acts like a prosecutor.
